

REMARKS

Reconsideration and allowance of this application, as amended, is respectfully requested.

This Amendment is in response to the Office Action mailed February 26, 2007. Appreciation is expressed to the Examiner for the indication of allowable subject matter in claim 14.

By the present Amendment, a new independent claim 20 has been added, which corresponds to claim 14 rewritten into independent form. Also, claim 15 has been amended to depend from claim 20 to provide antecedent basis for the term "said region." In addition, claim 15 has been amended to correct the spelling error noted in the Office Action. By virtue of these amendments, allowance of new independent claim 20 is respectfully requested (noting that this includes the subject matter indicated as being allowable regarding claim 14) and reconsideration and removal of the 35 USC §112, second paragraph, rejection against claim 15 is respectfully requested.

Also by the present Amendment, independent claims 11 and 16 have each been amended to clarify distinctions over the cited prior art. Specifically, each of these independent claims has been amended to further define the content of Sb as being between 25 atom percent and 35 atom percent to clarify the distinctions over the cited prior art.

Reconsideration and allowance of the amended independent claims 11 and 16 over the prior art rejection set forth in the Office Action based on USP 5,271,978 to Vazen, in view of Nishida (0335469) and Parkinson '413 is

respectfully requested, whether these references are considered alone or in combination with one another.

In the first place, by virtue of the present Amendment, each of the independent claims 11 and 16 clearly defines that the Sb content is 25 atom percent to 35 atom percent. In the Office Action, it is stated:

“Vazen teaches a recording film comprising antimony (Sb) greater than 40 atom percent.”

As such, the amendments to independent claims 11 and 16, clearly specifying the atom percent of antimony (Sb) as 25 atom percent to 35 atom percent clearly distinguishes over the cited primary reference to Vazen which contains 40 atom percent more of Sb.

In addition, it is respectfully submitted that the combination proposed of Vazen and the secondary reference to Nishida is not a proper combination since the modes of operation of these two devices are completely opposite one another. More specifically, Vazen does not disclose a Te-containing material. As such, Vazen operates in a manner completely different than an arrangement which includes material containing Te of 40 atom percent or more together with a material containing Te greater in content than Sb (as now clearly defined in each of the independent claims 11 and 16).

Specifically, the arrangement of Vazen, relying on Sb-based or InSb-based material operates on the principle of erasing by crystal growth (such as typically used in a DVD-RW). The secondary reference to Nishida, on the other hand, utilizes a Te-based material which erases based on crystal nucleus creation (generation) and growth. DVD-RAMs are devices typically using this type of erasure. Thus, the proposed combination of Nishida with Vazen would not at all be regarded as reasonable by one of ordinary skill in

this art because the principles of operation utilized by the two different documents (especially regarding erasure) are completely different from one another. The fact that Vazen is not a Te-based material means that it operates in a completely different manner, (particularly regarding erasure) from the arrangement of Nishida, which is a Te-based material. Combining the two references would result in completely changing the entire mode of operation of Vazen. As such, one of ordinary skill in the art would not at all be motivated to make this complete modification of the primary reference. In particular, it is respectfully submitted that the only basis for such a complete restructuring of the primary reference would be based upon the applicants own disclosure, the use of which, of course, is impermissible hindsight. Therefore, reconsideration and removal of the rejections of the independent claims 11 and 16, as amended, is respectfully requested.

Reconsideration and allowance of the dependent claims 13-15 and 17 and 18 is also respectfully requested. Of course, claim 14 has already been indicated as allowable, which should remain unaffected by the amendment to its parent independent claim 11. With regard to the other dependent claims, claim 15 has been amended to depend on new claim 20, which should also place it in condition for allowance, as discussed above. Dependent claims 13, 17 and 18 serve to further define distinctions over the cited prior art, particularly when considered in combination with the features of their respective independent parent claims, as discussed above. Therefore, reconsideration and allowance of these dependent claims is also respectfully requested.

If the Examiner believes there are any matters which can clarified either by way of a personal or telephone interview, the Examiner is invited to contact Applicants undersigned attorney at the number indicated below.

To the extent necessary, Applicants petition for an extension of time under 37 CFR §1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (Case No. 500.43579X00) and please credit any excess fees to such deposit account.

Respectfully submitted,
ANTONELLI, TERRY, STOUT & KRAUS, LLP

GEM/dks

/Gregory E. Montone/
Gregory E. Montone
Registration No. 28,141